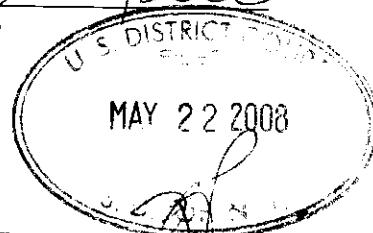


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKDocument # 18*Revera*

-v-

Encole

U.S.C.A. # _____

U.S.D.C. # 07-CV-3577JUDGE: RMBDATE: May 22, 2008

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME): THOMAS R. PISARCZYK
 FIRM: U.S. DISTRICT COURT - SOUTHERN DISTRICT OF NEW YORK
 ADDRESS: 500 PEARL STREET, ROOM 370
NEW YORK, NEW YORK 10007
 PHONE NO.: (212) 805 - 0636

DISTRICT COURT DOCKET ENTRIES _____

DOCUMENT DESCRIPTION

DOC. #

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

 Original Record Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.
 for the Second Circuit on the 21 Day of May, 2008.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Rivera

-V-

Erecole

U.S.C.A. #

U.S.D.C. # 07-cv-3577

JUDGE: RMB

DATE: May 22, 2008

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 17, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

Date Filed

Document Description

Handwriting practice lines for the first name 'John'.

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York,
this 27th Day of June In this year of our Lord, Two Thousand and Eight, and the Independence of
the United States this 232nd year.

~~J. Michael McMahon, Clerk~~

By

Deputy Clerk

APPEAL, CLOSED, HABEAS, PRO-SE

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:07-cv-03577-RMB
Internal Use Only

Rivera v. Ercole
Assigned to: Judge Richard M. Berman
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 05/04/2007
Date Terminated: 03/07/2008
Jury Demand: None
Nature of Suit: 530 Habeas Corpus (General)
Jurisdiction: Federal Question

Date Filed	#	Docket Text
05/04/2007	1	PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254. Document filed by Miguel Rivera.(laq) (Entered: 05/09/2007)
05/04/2007		Magistrate Judge Andrew J. Peck is so designated. (laq) (Entered: 05/09/2007)
05/11/2007	2	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for habeas corpus. Referred to Magistrate Judge Andrew J. Peck. (Signed by Judge Richard M. Berman on 5/10/07) (djc) (Entered: 05/14/2007)
05/14/2007	3	ORDER the Clerk of Court shall serve a copy of this Order and Petition, by certified mail, upon the Attorney General of the State of New York and the District Attorney of New York County, and shall also send a copy of this Order, by certified mail, upon Miguel Rivera. (Signed by Judge Andrew J. Peck on 5/14/2007) Copies Mailed By Chambers.(tve) (Entered: 05/23/2007)
05/14/2007		Set Answer Due Date purs. to 3 Order to Answer, as to Robert Ercole answer due on 7/13/2007. (tve) (Entered: 05/23/2007)
05/23/2007		Mailed a copy of 3 Order to Answer, to Miguel Rivera by Certified Mail # 7001 2510 0002 8738 2800 with Return Receipt Requested. (tve) (Entered: 05/23/2007)
05/23/2007		Mailed a copy of 1 Petition for Writ of Habeas Corpus, 3 Order to Answer, to the District Attorney of the State of New York by Certified Mail # 7001 2510 0002 8738 2787 with Return Receipt Requested. (tve) (Entered: 05/23/2007)
05/23/2007		Mailed a copy of 1 Petition for Writ of Habeas Corpus, 3 Order to Answer, to the Attorney General of the State of New York by Certified Mail # 7001 2510 0002 8738 2794 with Return Receipt Requested. (tve) (Entered: 05/23/2007)
05/23/2007		Received Return Receipt of Mail Order by Certified Mail as to Miguel Rivera, which was served by Certified Mail # 7001 2510 0002 8738 2800, on 5/31/07. (rdz) (Entered: 09/14/2007)
05/30/2007		Received Return Receipt of 1 Petition for Writ of Habeas Corpus, 3 Order to Answer, as to the Attorney General of the State of New York, which was served by Certified Mail # 7001 2510 0002 8738 2794, on 5/24/2007. (tve) (Entered: 09/13/2007)
06/04/2007		Received Return Receipt of 1 Petition for Writ of Habeas Corpus, 3 Order to Answer, as to the District Attorney of New York County, which was served by Certified Mail # 7001 2510 0002 8738 2787. (tve) (Entered: 09/13/2007)
07/02/2007	4	ORDER DENYING APPOINTMENT OF COUNSEL & OTHER RELIEF. In light of the decisions of the Second Circuit in Cooper v. Sargent Co. The Court denies the petitioner's application for the appointment of counsel at this time. (Signed by Judge Andrew J. Peck on 6/29/2007) Copies Mailed By Chambers.(jpo) (Entered: 07/05/2007)
07/11/2007	5	STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of Bronx, Case Number 4586-01, held on 1/29/2003 before Judge Phylis Skloot Bamberger.(mbe) (Entered: 07/12/2007)
07/11/2007	6	STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of Bronx, Case Number 4586-01, held on 11/21/2002 before Judge Phylis Skloot Bamberger.(mbe) (Entered: 07/12/2007)
07/11/2007	7	STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of Bronx, Case Number 4586-01, held on 12/6/2002 before Judge Phylis Skloot Bamberger.(mbe) (Entered: 07/12/2007)
07/11/2007	8	MEMO ENDORSEMENT on DECLARATION IN SUPPORT FOR RECONSIDERATION STAYING THE PETITION PURSUANT TO 28 U.S.C. 2244(d)(2); DENIED. There is nothing new in this reconsideration request. (Signed by Judge Andrew J. Peck on 7/10/07) Copies Faxed By Chambers(kco) (Entered: 07/13/2007)
07/11/2007	9	AFFIRMATION of Jennifer Marinaccio in Opposition re: 1 Petition for Writ of Habeas Corpus. Document filed by Robert Ercole. (jmi) (Entered: 07/16/2007)
07/23/2007	10	MEMO ENDORSEMENT on Petitioner's Declaration in Support Issuing permission to Amend the Original Petition pursuant to Rule 15(c) governing section 28 USC 2254 cases in the USDC. Endorsement: The Govt is to respond by 7/30/2007 as to whether it consents to or objects to the amendment. (Signed by Judge Andrew J. Peck on 7/23/2007) Copies faxed by chambers.(jar) (Entered: 07/25/2007)
07/26/2007	11	AFFIRMATION of Jennifer Marinaccio in Opposition re: 1 Petition for Writ of Habeas Corpus. Document filed by Robert Ercole. (dle) (Entered: 07/31/2007)
08/10/2007	12	LETTER addressed to Judge Andrew J. Peck from Miguel Rivera dated 8/1/07 re: In reply to Respondent's communication to the Court dated 7/25/07, Petitioner objects to the removal of this petition. Document filed by Miguel Rivera.(tro) (Entered: 08/14/2007)
09/18/2007	13	REPORT AND RECOMMENDATIONS, that Rivera's habeas petition should be denied in its entirety, Rivera's motion to amend his habeas petition should be denied, and a certificate of appealability should not be issued re: 1 Petition for Writ of Habeas Corpus filed by Miguel Rivera. Objections to R&R due by 10/5/2007 (Signed by Judge Andrew J. Peck on 9/18/07) copies sent by chambers.(cd) (Entered: 09/18/2007)
09/18/2007		CASE NO LONGER REFERRED to Magistrate Judge Andrew J. Peck. I have closed the above reference for magistrate judge statistical purposes. Reason: 9/18/07 Report and Recommendation. (ae) (Entered: 09/24/2007)

10/03/2007	14	MEMO ENDORSEMENT ON MIGUEL RIVERA'S DECLARATION: request this Honorable Court to grant me an extension of 60 days in order to file a logical and cogent response to the Magistrate Judge's Report and Recommendation. ENDORSEMENT: Extension Granted to serve and file any objections by 12/5/2007. Objections to R&R due by 12/5/2007. (Signed by Judge Richard M. Berman on 10/3/2007) (jmi) Modified on 10/16/2007 (Miles, Janeen). (Entered: 10/04/2007)
10/05/2007	15	STATE COURT TRANSCRIPT of proceedings in the Supreme, County of NY, Case Number 4586/01, held on 12/2/02 before Judge Bamberger.(cd) (Entered: 10/05/2007)
03/07/2008	16	DECISION AND ORDER: For the foregoing reasons, the Court adopts the Report in its entirety. The petition is dismissed and the Clerk of the Court is respectfully requested to close this case. So Ordered. (Signed by Judge Richard M. Berman on 3/7/08) (js) (Entered: 03/07/2008)
04/08/2008	17	NOTICE OF APPEAL from <u>16</u> Order Adopting Report and Recommendations. Document filed by Miguel Rivera. Copies mailed to attorney(s) of record: Attorney General, NYS. (tp) (Entered: 05/19/2008)
04/08/2008		Appeal Remark as to <u>17</u> Notice of Appeal filed by Miguel Rivera. \$455.00 APPEAL FEE DUE. IFP REVOKED 3/7/08. COA DENIED 3/7/08. (tp) (Entered: 05/19/2008)
05/19/2008		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>17</u> Notice of Appeal. (tp) (Entered: 05/19/2008)
05/19/2008		Transmission of Notice of Appeal to the District Judge re: <u>17</u> Notice of Appeal. (tp) (Entered: 05/19/2008)